

For purposes of the Retailers' Occupation Tax Act, food is "any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including food such as condiments, spices, seasonings, vitamins, bottled water and ice." See 86 Ill. Adm. Code 130.310(b)(1). (This is a GIL.)

September 21, 2004

Dear Xxxxx:

This letter is in response to a letter received on your behalf dated August 27, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We respectfully request a taxability ruling for a new product we are introducing called PRODUCTS. A description of the product is provided below.

**Facts**

ABC is a multilevel marketer of nutraceutical products and dietary supplements based in CITY/STATE.

ABC scientifically addresses nutritional support from two distinct approaches. The first is the need for a general diet plan that addresses an individual's need for recommended amounts of proteins, fats, and carbohydrates, and the appropriate supplements to support those genetic requirements. This is accomplished through ABC's proprietary program. The second approach centers around plant-synthesized molecules that are not found in our diets, but have been shown to have dynamic impact on our ability to achieve optimal health. ABC has developed naturally occurring, plant-derived, carbohydrate-based products. ABC's products are designed to use nutrients working through normal physiology to maintain optimal health through improved nutrition.

Many of ABC's products include the NAME complex (patent pending), which is designed to provide all eight polysaccharides necessary for correct and efficient cell-to-cell communication. Polysaccharides are defined in the dictionary as carbohydrates which contain more than three monosaccharide units (simple sugars) per molecule.

## **Issue**

Are PRODUCTS subject to tax?

## **Discussion**

PRODUCTS are a dietary supplement that helps support the nutritional needs of children by providing 12 different dehydrated fruits and vegetables in the form of a great tasting FOOD. In addition, PRODUCTS contain NAME complex, a beneficial glyconutrient and green tea powder, a powerful antioxidant. The base ingredient of the FOOD is made from pectin, derived from various natural sources. Research has shown that pectin, a non-animal product, offers a number of health advantages from which children may benefit. PRODUCTS were created to provide a healthy snack alternative for children.

A copy of the PRODUCTS label, as well as a copy of the brochure for PRODUCTS, has been provided for your convenience.

We respectfully request written confirmation regarding the taxability of this product.

Please forward your response to the following address:

NAME/ADDRESS

If you have any questions or would like more information, please do not hesitate to call.

## **DEPARTMENT'S RESPONSE:**

Information regarding the taxation of food, drugs and certain medicines may be found at 86 Ill. Adm. Code 130.310. You may also find General Information Letters ST-03-0040-GIL and ST-02-0036-GIL helpful in making a determination regarding the tax liability of the product described in your request. The Department makes its Sales Tax "Sunshine Letter" rulings available on its Internet website under the heading of Legal Research.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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